

STATE OF MARYLAND

070597

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October 22, 2012

Honorable Isaiah Leggett
Montgomery County Executive
Executive Office Building (EOB)
101 Monroe Street, 2nd Floor
Rockville, MD 20850
Via Regular Mail
Via Email to:
ocemail@montgomerycountymd.gov

Montgomery County Council
100 Maryland Avenue
Rockville, MD 20850
Via Regular Mail
Via E-mail to:
county.council@montgomerycountymd.gov

RECEIVED
MONTGOMERY COUNTY

2012 OCT 22 PM 3:57

Dear Mr. Leggett and Members of the Montgomery County Council,

I have received a complaint that County officials and employees are engaged in the expenditure of County funds and the use of County employees on the job during working hours to campaign in support of Question B.

As I am sure you are aware, all solicitations and expenditures of funds to support or oppose a ballot question at an election must be conducted by a ballot issue committee. (see, for example, the enclosed article from the Baltimore Sun regarding public official support for Question 7). If funds have been provided or spent in support of Question B by the County, rather than through a duly established ballot issue committee registered with the State Board of Elections, those actions may violate Title 13 of the Election Law Article. Section 13-603 of the Election Law Article provides that such violations are punishable by a fine of \$25,000.00 and/or imprisonment not exceeding one year.

Article 24, § 13-105 provides that "[a]n employee of a local entity may not: (1) engage in political activity while on the job during working hours...". Section 13-106 provides that such a violation is a misdemeanor punishable by a fine not exceeding \$3,000.00 and/or imprisonment not exceeding 6 months. A public officer who directs, orders or solicits employees under his authority or control to violate that section may have committed the common law offense of misconduct in office.

An examination of the County website and other publicly available materials indicates that the Montgomery County Office of Public Information has been actively engaged in producing and distributing materials clearly and unequivocally urging a vote in favor of Question B. It is also apparent from the website that the same office is also actively advocating approval of another ballot issue relating to employment of veterans, known as Question A.

This Office will be conducting an investigation into these activities to determine whether any criminal violations warranting criminal prosecution have been committed in connection with these activities, including, but not limited to the violations specified above. Whether any violations continue after the date of this letter will certainly be a factor in our determination whether any violations found warrant criminal prosecution.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Emmet C. Davitt", is written over a horizontal line.

Emmet C. Davitt
State Prosecutor

MIDNIGHT SUN

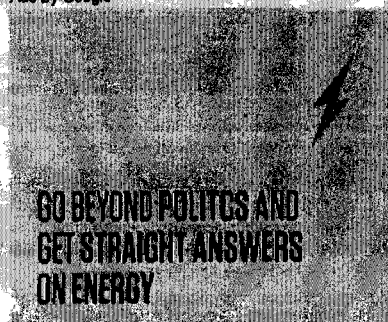
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O'Malley, county execs appear in new casino ads

Spots seek to reassure voters that revenue would go to schools

October 18, 2012 | By Michael Dresser, The Baltimore Sun

Proponents of expanded gambling have enlisted four leading political figures — including Gov. Martin O'Malley — to make television ads assuring voters that the additional tax revenue expected to flow into state coffers will go to education.

The 30-second spots aim to counter what is apparently an effective argument by opponents of Question 7 on the Nov. 6 ballot: That voters can't trust politicians not to divert the additional revenue away from the schools.

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The latest ads show O'Malley, Prince George's County Executive Rusham L. Baker III, Montgomery County Executive Ish Leggett and and former Baltimore County Executive Jim Smith telling Marylanders that if they stop the flow of gambling dollars to neighboring states, the money will be used in the classroom.

O'Malley's ad, paid for by a ballot committee financed largely by MGM Resorts International, shows him looking directly into the camera and urging Marylanders to vote yes on a plan that would raise state revenue by allowing a new casino in Prince George's County and allowing table games at all casinos in the state.

"As governor, I can promise you that money will go to education. That's the law, and that's what we'll do," he said.

The ad follows harsh criticism the governor leveled at Penn National Gaming, the chief opponent of the gambling expansion plan, for its arguments questioning Maryland leaders' commitment to using the new revenue to fund schools. Penn National ads make the argument that there is no guarantee that money earmarked for education in the law will actually increase state funding for schools.

Independent analysts have pointed out that is true; while the law directs revenue to the Education Trust Fund, lawmakers are free to reduce other spending on schools to offset the increased revenue in the trust fund.

MGM wants to operate a new casino at National Harbor in Prince George's while Penn National, which operates a large casino in West Virginia, wants to block it. Together they have raised more than \$45 million for a high-stakes ad war.

According to proponents, the O'Malley ad is on the air in both Washington and Baltimore. Another ad, pitting Leggett and Baker, is being shown in the Washington area. Two versions of ads by Smith are running on Baltimore stations. All are being paid for by FOR Maryland Jobs and Schools, the ballot committee set up by MGM and other Question 7 backers.

The ads represent an apparent shift in tactics by casino supporters, who previously had been touting the economic development benefits of the gambling expansion plan.

Steve Raabe, president of the polling firm OpinionWorks, said he's surprised by supporters' decision to use public officials in the ads.

"Trust in elected officials is not at a high level right now," he said. "They've identified the fact they need to change strategy, but this is an unusual way to go at the end because the last thing people want to hear is what politicians think."

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Raabe, whose firm polls for *The Sun* as well, found in a survey last month that more than half of Maryland voters oppose Question 7, while 38 percent would vote yes. But he did not rule out a comeback by gambling supporters. "Despite all the opposition, it's still entirely possible they can win," he said.

The use of elected officials in an MGM-sponsored ad raises ethical issues, said James Browning, mid-Atlantic director of the watchdog group Common Cause. It raises the appearance of a possible "quid pro quo," he said. The spots also give the officials free publicity for possible future campaigns.

Browning said O'Malley's role in particular raises concerns.

"He's playing for really high stakes now -- thinking of running for president. He's going to remember his friends," Browning said.

But Raquel Gullory, O'Malley's spokeswoman, denied the governor's appearance raises ethical issues. She said the governor was not paid and noted that the legislation that put Question 7 on the ballot was his own bill.

"This solely has to do with putting to rest erroneous statements made by the opposition, adding clarity and voicing his support for legislation that he sponsored," she said.

Leggett said his appearance was made without pay and on his own time. He said he made the ad simply because he believes Question 7 would make good public policy. A spokesman for Baker could not be reached.

Kevin McLaughlin, a spokesman for the ballot committee funded by Penn National, said the appearance of O'Malley and Baker in the ads shows a bias toward National Harbor and against Rosecroft Raceway, a Penn National-owned property that is eligible under the law to compete for a casino license.

"It would give the appearance that the open bidding process they claim there is actually a farce," McLaughlin said.

michael.dresser@baltisun.com

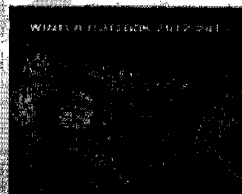
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